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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,016	12/30/2003	John W. Hoffman	18,996	9322

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EXAMINER	
SCHATZ, CHRISTOPHER	

ART UNIT	PAPER NUMBER
1733	

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/750,016	HOFFMAN ET AL.	
	Examiner	Art Unit	
	Christopher T. Schatz	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-14* is/are pending in the application.

4a) Of the above claim(s) *10-12* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-9,13 and 14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. In view of the Appeal Brief filed on August 23, 2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2, 7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel et al. '922 in view of Herrin '345, Coenen et al. (WO 02/13741) (newly cited), and optionally in view Milner et al. (2001/0042591) (newly cited). VanGompel discloses an article web 20, said article web comprising: an elastic member 60 wherein at least a portion of said elastic member is elongatable to define an elastic member width (column 8, lines 48-50); an inboard portion 58 and an outboard side portion 90. VanGompel further discloses that when said elastic member is applied to said article web, the outboard portions of said elastic member extend beyond edges 28 of said article web (figure 1, figure 7, column 2, lines 41-54, column 9, lines 38-49). VanGompel is silent as to the specific method in which said elastic member is applied to the article web. It should be noted, however, that VanGompel does state that the elastic member 60 was applied to the article in a tensioned state (contactable) as described in (column 9, lines 9-17).

Herrin discloses a method for applying an elastic member 22 to an article web 18, said method comprising of: providing an elastic member, wherein at least a portion of the said elastic member is elongated in a cross machine direction (column 1, lines 49-52); cutting said elastic member to define a trailing edge (column 3, lines 36-45); moving said elastic member in a machine direction along an elastic member web path (column 2, lines 12-17) (Figure 6); providing a pair of rotatable wheels 68,78 in said elastic member web path, said wheels defining: a pair of inboard edges 76,86 and a pair of outboard edges opposite said inboard edges (Figure 6), an elastic entry location 92 having a width that is less than the width of the elastic member (column 2, lines 19-21); and an elastic member exit location 94 having a width that is greater than the width of the entry location (figure 6); engaging the elastic member with the pair of

wheels at said elastic member entry location (column 4, lines 36-38) , wherein a portion of the elastic member is located beyond the each said inboard potion of said pair of wheels thereby defining a pair of outboard portions 22B,22C and an inboard portion of the elastic member (Figure 6); and rotating the elastic member with said pair of wheels and applying said elastic member to the article web at the elastic member exit location (column 4, lines 46-51). Herrin further discloses that the above recited method is appreciated by those skilled in the art because the method is a high speed way to attached elastic members to article webs during the manufacture of disposable absorbent webs (column 4, lines 52-61) Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to use the method taught by Herrin to produce the novel, zone-stretched product taught by VanGompel because Herrin's method is known and appreciated those of ordinary skill in the art.

The references are silent, however, as to the formation of a line of weakness in the elastic material web to define a trailing edge of the elastic member. Coenen et al. discloses a method for applying an elastic member to an article web wherein a line of weakness is formed in said elastic material to define a trailing edge of said elastic member and subsequently separating the elastic material web at said line of weakness into discrete elastic members (page 10, lines 19-24, page 11, 3-6). Forming a line of weakness to define a trailing edge of an elastic member and subsequently separating the elastic material web at said line of weakness into discrete elastic members is advantageous because, as disclosed by Coenen et al., doing so makes the separation of the elastic material web easier (page 10, lines 22-24). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the method disclosed by VanGompel and Herrin by forming a line of weakness to define a trailing edge of an elastic

member and subsequently separating the elastic material web at said line of weakness as taught by Coenen et al.

While it is believed that Coenen et al. clearly envisioned the use of a formation of a line of weakness prior to cutting an elastic web in order to make separation of the continuous supply of elastic into discrete portions easier, the reference was in fact separating elastics for formation of leg elastics rather than waist elastics. Nonetheless, one skilled in the art would have understood that the use of such a formation of a line of weakness would have been useful in the formation of a waistband (waist elastics) in light of the teachings Milner et al. Milner et al. taught the formation of a line of weakness in an elastic which was later designated to be the waist elastic where such a line of weakness made separation easier (paragraph 0017). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to form a line of weakness to define a trailing edge of an elastic waist member as taught by Milner et al. above in the process of applying an elastic member to an article web as set forth above by VanGompel, Herrin, and Coenen et al.

As to claim 7, VanGompel discloses a method wherein the bottom edge of the elastic member 60 is joined to the article web material (at location 68) and can take on a curvilinear shape (figure 7, column 9, lines 63-67) While VanGompel does not explicitly disclose that said bottom edge is a "trailing" edge, the bottom edge would be considered a trailing edge during the method of applying an elastic member to an article web material as set forth by Herrin.

As to claim 13, Herrin discloses that the inboard portion of an elastic member is elongated at least 50%. Note that although the reference does not explicitly recite that the inboard portion is elongated by more than 50%, it is clear upon examination of figure 6, that the

length of the outlet portion 94 of the rollers is greater than 50% of the length of the inlet portion 92. Thus, one of ordinary skill in the art would have understood that the inboard portion of the elastic member would be elongated by at least 50%.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel et al., Herrin, Coenen et al. and Milner et al. as applied above, and in further view of Coenen '151 (newly cited).

VanGompel et al., Herrin, Coenen et al. and Milner et al. disclose a method as stated above, and Herrin discloses a method wherein an adhesive application assembly 100 is used to apply adhesive to an article web. The references are silent as to a method wherein adhesive is applied to the elastic web. Coenen '151 is drawn to method of adhering an elastic member to an article web, and the reference discloses that applying adhesive to the elastic member is a well known alternative equivalent method to applying adhesive to the article (column 3, line 65 – column 4, line 8). At the time of the invention it would have been obvious to a person of ordinary skill in the art to apply adhesive to the elastic material web instead of the article web in the method of Herrin since the two application methods are well known alternative equivalents as taught by Coenen '151 above.

5. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel et al., Herrin, Coenen et al., Milner et al., and Coenen '151, as applied above, and in further view of Ujimoto et al. '340.

VanGompel et al., Herrin, Coenen et al., Milner et al., and Coenen '151 disclose a method as discussed above, the but the references are silent as to the specific type of adhesive pattern applied to the elastic web material. Ujimoto et al. discloses a method of for attaching an

elastic member to an article web, wherein adhesive is applied in a rectilinear pattern (figure 2). The reference further discloses that the rectilinear pattern is one of several different known adhesive application patterns (column 4, lines 50-51), and examiner asserts that it would have been well within the purview of one ordinary skill in the art to select a rectilinear application pattern when applying adhesive to the elastic material web of Herrin as such a pattern is well known in the art. Absent any unexpected results presented by the applicant that demonstrate the critically of a rectilinear adhesive pattern to an elastic material web, the claim limitation does not patentably distinguish applicant's claimed method over the prior art. At the time of the invention it would have been obvious to a person of ordinary skill in the art to apply adhesive in a rectilinear pattern to the elastic material web of Herrin as is well known in the art and taught by Ujimoto. As to claim 5, Ujimoto et al. discloses a method wherein an operative amount of adhesive is registered with a leading edge and a trailing edge of an elastic member (column 4, lines 50-51). Note the reference discloses that the adhesive can be applied in an intermittent form as an alternative to a continuous form. Although the reference does not explicitly recite the phrase "registered with the leading and trailing edges of the elastic member," the reference does disclose that it is advantageous to have the adhesive registered with the longitudinal edges (column 2, lines 56-59). Thus, one of ordinary skill in the art would have understood at the time the invention was made that an operative adhesive could be applied intermittently to the uncut elastic members such that said operative amount of adhesive is registered with the leading and trailing edge. As to claim 6, Ujimoto et al. discloses a method wherein an operative amount of applied adhesive does not contact the pair of wheels (column 5, lines 63-68).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel et al., Herrin, Coenen et al., Milner et al. as applied above, and further in view of Elsberg '287 and Blenke et al. '430.

VanGompel et al., Herrin, Coenen et al., Milner et al. disclose a method as stated above, but the references are silent as to a method wherein the trailing edge defines a "w" shape. Elsberg and Blenke et al. are both directed to an absorbent article comprising an elastic waistband, and further disclose said waistband comprises a "w" shape (figures 4 and 5 of Blenke et al, figures 3 and 4 of Elsberg). The specific shape of the elastic band (68 in Elsberg, 64 in Blenke) makes for a product that better conforms to the users body. Additionally, the disclosure of an elastic band with a "w" shape by multiple references indicates that such a shape is well-known in the art, and examiner asserts that it would have been well within the purview of one of ordinary skill in the art to select a "w" shape. Absent any unexpected results presented by the applicant that demonstrate the critically of a "w" shape, the claim limitation does not patentably distinguish applicant's claimed method over the prior art. At the time of the invention it would have been obvious to a person of ordinary skill in the art to define the trailing edge of an elastic member as a "w" shape in the method of VanGompel et al., Herrin, Coenen et al., Milner et al. because said shape is well known and provides a comfortable fit for the user as taught by Elsberg and Blenke et al.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable VanGompel et al., Herrin, Coenen et al., and Milner et al. as applied to claim 1 above, and in further view of Ruscher et al. '793. VanGompel et al., Herrin, Coenen et al., and Milner et al. disclose a method as stated in claim 1, but the references fail to disclose a specified diameter for each wheel.

Ruscher et al. discloses a method of applying an elastic member to an article web material wherein the diameter of each wheel is between 0.3 and 2.0 meters (column 5, lines 1-12). Using wheels with the specified diameter range is advantageous because, as disclosed by Ruscher et al., doing so allows the article web material to pass through at least one of the wheels before the elastic member is bonded to said article web (column 8, lines 17-21). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art use wheels with said specified diameter as taught by Ruscher et al. above in the process of applying an elastic member to an article web material as set forth above by VanGompel et al., Herrin, Coenen et al., and Milner et al.

Response to Arguments

Applicant's arguments presented on page 5 of the appeal brief with respect to Ujimoto have been considered but are moot in view of the new ground(s) of rejection. With respect to Coenen et al., applicant arguments are not found convincing. Examiner asserts that Coenen et al. does teach that forming a line of weakness and cutting said web at said line of weakness is easier than the cutting disclosed by Herrin because Coenen et al. explicitly discloses that cutting at a line of weakness is easier and examiner asserts that cutting at a line of weakness necessarily requires *both* the steps of forming the line, and then cutting at said line.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 8:00-5:30, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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